MT LEGISLATIVE HISTORY

Chapter 93 1963

Bill H 124 S _____ Original bill & hist. ___C

H. Committee on Judiciary

Hearing Date(s) Jan 24 ✓C
Feb 06 ✓C
Feb 11 ✓C
Feb 12 ✓C

Date Out Feb 12 ✓C

S. Committee on Public Health, Welfare & Safety

Hearing Date(s) Feb 20 ✓C
_____ ___C
_____ ___C
_____ ___C

Date Out Feb 21 ✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

January 24, 1963

JUDICIARY COMMITTEE

Meeting of the House Judiciary Committee was held in the Committee Room at 9:00 a.m., January 24, 1963. Chairman Haughey presided.

Upon call of the roll all members of the Committee were present with the exception of McNamer.

First in the order of business was Senate Bill No. 26 to prohibit any Justice or Judge from acting as administrator or executor for compensation. A short discussion was held and the motion was made by Rep. Murray that this bill Do Pass. Rep. Keller seconded the motion and the motion carried.

House Bill No. 124 on liability of persons rendering emergency care was further discussed by the Committee. It was decided that there is some need to protect these persons from civil damage suits, however, it was also considered that the injured person is due to some protection as well. This brought up the question of including "gross negligence".

Dr. Weeks, Representative from Fallon County was called into the room and asked his opinion from the viewpoint of the medical doctors. He was asked if under the present situation, some doctors might be hesitant to give the necessary aid. Dr. Weeks said that there have been cases of that but he didn't think there were many although there is always a fear in the mind of a doctor because they are liable. He further indicated that he did not think it should be wide open and that there should be some protection for the person; but the doctor should not be held for a large lawsuit because things were not and could not be carried out . He then gave an example of a case when a man went through a windshield of a car and cut his neck open to the backbone. It was necessary to carry him to town in a cattle truck. Thus the situation regarding circumstances and reluctancy were pointed out.

It was decided by the Committee that an amendment should be considered. Rep. Turnage will work on the amendment.

House Bill No. 152 was assigned to Rep. Murray to be reported on at a later date.

House Bill No. 150 was discussed to some degree by the members of the Committee and it was decided that the bill should pass to provide for reasonable compensation for estate appraisers. Motion by Rep. Dykstra, Do Pass, seconded by Keller. Motion Carried.

In discussion with Mr. Loman it was concluded that the bill must be flexible; whether this would better be allowed with or without the penalty clause is yet a question. In agreement too, was the need for some exceptions.

With respect to Harpers bill and posting and filing notices it was considered that every committee of the city council doesn't post a notice of every meeting. If they did, every telephone post would be covered. The idea of adequate records was also questioned. Should every committee have to make a perpetual record?

Haughey further noted that it is a necessity for public bodies to have full and thorough discussions. There are perhaps other items that should be included as in the Jensen bill.

Mr. Loman felt that the real reason for legislation of this nature is for irresponsible press officials and the king-making government official. We need policy to hold them in line.

It was agreed that there are some things that should be allowed discussion in private as too many restrictions would tend to stifle the flow and extent of speech, and would inhibit public officials.

Also brought to the attention of the Committee in regard to HB 71 was the fact that there must be nothing to impair the validity of action taken.

The extensive discussion of these three bills ended with the assignment of further consideration and possibly re-drafting by the sub-committee.

House Bill No. 124 was then given to a sub-committee of Bailey, Turnage, and Keller.

Meeting adjourned.

James H. Haughey, Chairman

House Bill No. 124--see committee report for amendment as proposed, stating that the one rendering assistance shall not be liable except for gross, wilful or wanton negligence. The motion was made by Dykstra and seconded by Bradford that the bill DO PASS. Motion carried.

House Bills No. 10, 71, and 80 were submitted with a sub-committee report and a Substitute House Bill No. 71. This bill is the incorporation of the provisions warranting merit found in the three above mentioned bills. Jensen made a motion, seconded by Murray, that the bills 10, 71, and 80 DO NOT PASS. Motion carried. Substitute HB 71 will be considered by the committee.

House Bill No. 136 regarding non-support of wife and child as a felony was explained by Bradford; and he also made the recommendation and motion that the bill DO NOT PASS. The motion was seconded and carried.

House Bill No. 133, also regarding such felony, was considered by the committee. The motion was made by Bradford and seconded by Dykstra that the bill DO PASS. Motion carried.

House Bill No. 272 was reported on by Dykstra, saying organizations want it. They want to try reciprocity. This bill relates to exemptions from inheritance tax. Dykstra made the motion that the bill DO PASS. The motion was seconded by Murray. Motion carried.

Substitute House Bill No. 3 which also related to the inheritance tax was recommended DO NOT PASS, due to the fact that HB 272 was more favorable. The recommendation was adopted and the motion was made by Dykstra and seconded by Murray. Motion carried.

House Bill No. 106 regarding federal money for urban renewal projects was considered. The motion was made by Murray that the bill DO NOT PASS. The motion was seconded by Hemstad. Motion Carried.

House Bill No. 94 was presented to the committee and Representative Bardanouve, author of the bill, was asked to appear. This bill he said, is an aim at setting up a system of claiming unclaimed property for Montana. It will be taken over by a treasury and upon a provision claim, a person can regain property. It does not take away any right to property, and it could help the state.

February 6, 19 63

MR. SPEAKER:

We, your Committee on JUDICIARY

having had under consideration HOUSE Bill No. 124

A BILL FOR AN ACT ENTITLED: 'AN ACT TO PROVIDE THAT LICENSED PHYSICIANS AND SURGEONS, AND OTHER PERSONS, SHALL NOT BE LIABLE FOR ANY CIVIL DAMAGES FOR THE RENDITION OF EMERGENCY CARE OR ASSISTANCE DONE WITHOUT COMPENSATION AT THE SCENE OF EMERGENCIES OR ACCIDENTS, FOR ANY ACTS OR OMISSIONS BY SUCH PERSONS RENDERING SUCH EMERGENCY CARE."

Respectfully report as follows: That HOUSE Bill No. 124

be amended as follows:

In line 19, page 1 of the original bill following the word "omissions" by inserting "other than damages occasioned by gross, willful, or wanton negligence"

and as so amended,

February 11, 1963

JUDICIARY COMMITTEE

Meeting of the House Judiciary Committee was held in the committee room today at 8:30 a.m. Chairman Haggley presided. Members absent were Dykstra and Lucas.

Turnage was asked to report on Substitut House Bill No. 42. It was his opinion that the idea was good but he felt that it was dangerous to tamper with such.

Lucas questioned cutting out dower to the wife. He said it would not change dower statutes. The motion was made by Lucas and seconded by Turnage that the bill DO PASS. Motion carried.

House Bill No. 124, the good samaritan bill, was again discussed. At this time it was submitted to the committee with the information that there is no such thing as "wilful and wanton neglect" as worded in the bill. Therefore, words "acts or omissions" was suggested in place of "neglect".

House Bill No. 234, providing for reciprocal and expeditious disposition of detainers filed against inmates of prisons or other correctional institutions of party states, was considered by the committee.

Warden Ellsworth appeared before the committee as a proponent of this bill. He said that when a man is sent to Deer Lodge, they start filing detainers on him and some inmates have as many as nine. A man with one cannot get outside the wall. After he is there for four years, and he can be released, then they decide to withdraw the detainer. He continued his explanation of the problem mentioning reciprocity determination between states.

Lucas asked if the procedure could be changed to allow a man to be out on the farm etc., would it solve the problem?

Mr. Ellsworth said actually this is a security thing and in connection with other states it should be changed because they file several detainers on a man and then after he serves inside the wall for that reason, they change their mind and decide not to presecute.

Another purpose of the bill is to allow orderly means of trying men who are held in foreign states. Hope of successfully prosecuting now ismuch better in far less time.

February 12, 1963

JUDICIARY COMMITTEE

Meeting of the House Judiciary Committee was held in the committee room at 8:00 a.m. Roll call was taken and the following members were absent: Murray, Dykstra, Keller, and Zimmer. Chairman Haughey presided.

At this time Chairman Haughey presented the committee with the packet of bills drawn up by the committee on reclassification and reappraisal. These bills are as follows: HB 403, 405, 407, 408, 409, 410, and 413. A resolution providing for study by the legislative council is also included in the packet. HB 16 which has been held in committee, has now been incorporated in this category. See carbon sheet giving summary form of these bills.

The motion was made by Turnage and seconded by Hemstad that these bills DO PASS. Motion carried.

House Bill No. 124 was passed as amended. Motion carried.

House Bill No. 132 was discussed and the motion was made by Lucas and seconded by Murray that the bill DO NOT PASS. Motion carried.

Substitute House Bill No. 52 regarding the per diem payment to legislators was considered. The chairman announced that word from the Senate would indicate that they probably will not pass a pay raise bill of any kind. Therefore, the committee will wait to see what they will do with the bill now before them in the Senate.

Senate Bill No. 31 was brought before the committee for discussion and the chairman asked for ideas on capital punishment.

Turnage indicated his feeling that it was a dangerous thing. We have not used it and probably never will use it but he would not want to take it out.

In the case of first degree murder, it is still up to the discretion of the jury whether the punishment shall be death or life imprisonment.

The vote of the committee was nine--no, and four--yes on the motion made to concur in the bill.

February 12, 19 63

MR. SPEAKER:

We, your Committee on JUDICIARY

having had under consideration HOUSE Bill No. 124

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT LICENSED PHYSICIANS AND SURGEONS, AND OTHER PERSONS, SHALL NOT BE LIABLE FOR ANY CIVIL DAMAGES FOR THE RENDITION OF EMERGENCY CARE OR ASSISTANCE DONE WITHOUT COMPENSATION AT THE SCENE OF EMERGENCIES OR ACCIDENTS, FOR ANY ACTS OR OMISSIONS BY SUCH PERSONS RENDERING SUCH EMERGENCY CARE."

Respectfully report as follows: That HOUSE Bill No. 124

be amended as follows:

In lines 6 and 7 of Section 1 of the printed bill, being line 19 of page 1 of the original bill as previously amended by the committee on judiciary on February 6, 1963, by striking "gross, wilful, or wanton negligence" and inserting in lieu thereof the words "gross negligence or by wilful or wanton acts or omissions"

and as so amended,

MINUTES OF MEETING OF COMMITTEE
ON PUBLIC HEALTH, WELFARE AND SAFETY, STATE SENATE

February 20, 1963

A meeting of the committee on Public Health, Welfare and Safety was called to order by Chairman, O'Neill on February 20, 1963 at 4:20 p.m. in room 423, State Capitol Building.

A quorum being present consideration was given to the following bills: HB 124, HB 271, HB 369.

The following people were present appearing on these bills:
Representative Crum, Yellowstone Co., HB 369 and HB 271 (fo
Representative Pierce, Yellowstone Co., HB 124 (for)
L. R. Hogeland, Montana Medical Association, HB 124 (for)

Discussion of bills:

HB 369 BE CONCURRED IN: CARRIED

Moved by Senator Beley that the committee CONCUR IN HB 369. Seconded by Senator Thiessen. CARRIED.

HB 124 BE CONCURRED IN

Moved by Senator Hilling that HB 124 be CONCURRED IN. Seconded by Senator Cotton. CARRIED.

HB 271 SUB-Committee

Moved by Senator Cotton and seconded by Senator Melcher that HB 271 be turned over to a SUB-COMMMTTEE. CARRIED.
SUB-COMMITTEE: Senators Melcher, Graham and Hilling.

Adjournment.

R. T. O'Neill, Chairman

February 21, 1963, 19.....

MR. PRESIDENT:

We, your Committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE Bill No. 124

A BILL FOR AN ACT ENTITLED: AN ACT TO PROVIDE THAT LICENSED PHYSICIANS AND SURGEONS, AND OTHER PERSONS, SHALL NOT BE LIABLE FOR ANY CIVIL DAMAGES FOR THE RENDITION OF EMERGENCY CARE OR ASSISTANCE DONE WITHOUT COMPENSATION AT THE SCENE OF EMERGENCIES OR ACCIDENTS, FOR ANY ACTS OR OMISSIONS BY SUCH PERSONS RENDERING SUCH EMERGENCY CARE.

Respectfully report as follows: That HOUSE Bill No. 124

BE CONCURRED IN

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Do Pass.

CHAPTER 92

An Act for the Submission to the Qualified Electors of the State of Montana an Amendment to Section 29 of Article VIII of the Constitution of the State of Montana Relating to the Salary of the Justices of the Supreme Court and the Judges of the District Courts and Providing for the Quarterly Payment Thereof by the State of Such Salary and Providing that Such Salary Shall Not Be Diminished During the Terms for Which Such Justices and Judges Shall Have Been Respectively Elected.

Be it enacted by the Legislative Assembly of the State of Montana:

Amendment Section 29 Article VIII.

Section 1. That Section 29 of Article VIII of the Constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana, at the general election to be held in November of the year 1964.

Election 1964.

Amending clause.

Section 2. That Section 29 of Article VIII of the Constitution of the State of Montana be and it is hereby amended to read as follows:

Salary of justices of supreme court and district judges not diminished.

"Section 29. The justices of the supreme court and the judges of the district courts shall each be paid quarterly by the state, a salary, which shall not be diminished during the terms for which they shall have been respectively elected."

Submitted to votors— official ballot.

Section 3. This amendment shall be submitted to the qualified electors of the State of Montana by being placed upon the official ballot as provided by Chapter 11 of Title 23 of the Revised Codes of Montana, 1947, as amended and there shall be printed on such ballots the title of this act and the following words:

"☐ For the above Amendment.

☐ Against the above amendment."

Approved February 27, 1963.

CHAPTER 93

An Act to Provide that Licensed Physicians and Surgeons, and Other Persons, Shall Not Be Liable for Any Civil

Damages For the Rendition of Emergency Care or Assistance Done Without Compensation at the Scene of Emergencies or Accidents, for any Acts or Omissions by Such Persons Rendering such Emergency Care.

Be it enacted by the Legislative Assembly of the State of Montana:

Physician and surgeon rendering emergency care not liable for civil damages—

Exceptions.

Section 1. **Emergency care rendered at scene of accidents.** Any person licensed as a physician and surgeon under the laws of the state of Montana, or any other person, who in good faith renders emergency care or assistance, without compensation, at the scene of an emergency or accident, shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by wilful or wanton acts or omissions by such person in rendering such emergency care.

Effective immediately.

Section 2. This act shall be in full force and effect from and after the date of its passage and approval.

Approved February 28, 1963.

CHAPTER 94

An Act Amending Section 91-2202, R. C. M. 1947, to Provide for Reasonable Compensation for Estate Appraisers, to be Allowed by the Court or Judge.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-2202, R. C. M. 1947, is amended to read as follows:

Court shall appoint three appraisers—reasonable compensation for services.

"91-2202. **Appointment and pay of appraisers.** To make the appraisement, the court or judge must appoint three disinterested persons, any two of whom may act, who are entitled to receive a reasonable compensation for their services to be allowed by the court or judge. The appraisers must, with the inventory, file a verified account of their services and disbursements; if only one day's service is charged, the account need not be verified. If any part of the estate is in any other county than that in which letters issued, appraisers thereof may be appointed by the district court or judge having jurisdiction of the estate, or by the district court or judge of such